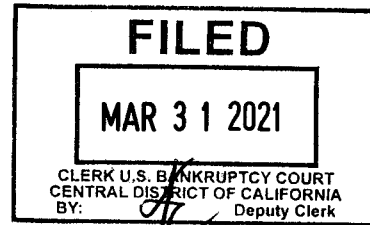


1 Richard M. Steingard (SBN 106374)
2 *rsteingard@SteingardLaw.com*
3 LAW OFFICES OF RICHARD M. STEINGARD
4 800 Wilshire Boulevard, Suite 1050
5 Los Angeles, California 90017
6 Telephone: (213) 260-9449
7 Facsimile: (213) 260-9450



8 Attorney for Proposed Designee
9 Christopher Kamon

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **LOS ANGELES DIVISION**

13 In Re GIRARDI KEESE,

14 Debtor.

15 Case No. 2:20-bk-21022-BR

16 Chapter 7

17 **OPPOSITION TO MOTION TO**
18 **DESIGNATE CHRISTOPHER**
19 **KAMON TO APPEAR OR ACT ON**
20 **BEHALF OF THE DEBTOR AND**
21 **COMPEL ATTENDANCE AT THE**
22 **§ 341(a) MEETING OF**
23 **CREDITORS PURSUANT TO**
24 **FEDERAL RULE OF**
25 **BANKRUPTCY PROCEDURE**
26 **9001(5); DECLARATIONS**

ORIGINAL

LAW
OFFICES OF
RICHARD M.
STEINGARD

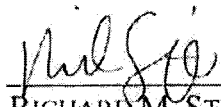
1 Christopher Kamon, by and through his attorney of record, Richard M.
2 Steingard, hereby submits this *Opposition to Motion to Designate Chris Kamon to*
3 *Appear or Act on Behalf of the Debtor and Compel Attendance at the § 341(a)*
4 *Meeting of Creditors Pursuant to Federal of Bankruptcy Procedure 9001(5).*

5 In support of this Opposition, Mr. Kamon submits the following
6 memorandum of points and authorities and the attached declarations of Richard M.
7 Steingard and Christopher Kamon.

8
9 DATED: March 31, 2021

Respectfully submitted,

10
11 LAW OFFICES OF RICHARD M. STEINGARD

12
13 

14 RICHARD M. STEINGARD
15 Attorneys for Prospective Designee
16 CHRISTOPHER KAMON
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 On March 18, 2021, Elisa D. Miller, the Chapter 7 Trustee ("Trustee"),
5 moved this Court to designate Christopher Kamon to appear and act on behalf of
6 the debtor, and to compel his attendance at a § 341(a) meeting of the creditors
7 pursuant to Federal Rules of Bankruptcy Procedure 9001(5). (ECF 269.) By this
8 Opposition, Mr. Kamon opposes the Trustee's motion.

9 As set forth below and in the attached declarations, there is an ongoing
10 federal criminal investigation in the Northern District of Illinois concerning the
11 Girardi Keese law firm where Mr. Kamon was employed. If named as a designee,
12 based on the government's investigation and the advice of counsel, Mr. Kamon
13 intends to assert his rights under the Fifth Amendment to the U.S. Constitution and
14 decline to make a statement or answer any questions put to him by the Trustee,
15 creditors, or anyone else associated with this action. As such, the proposed
16 appointment of Mr. Kamon would serve no purpose: neither the Trustee nor the
17 creditors would obtain the information they seek. Accordingly, we ask that the
18 Court deny the Trustee's motion.

19 It bears noting that before filing this Opposition, Mr. Kamon's counsel
20 contacted the Trustee's counsel, advised that Mr. Kamon intended to assert his
21 Fifth Amendment rights, and asked that the Trustee withdraw the instant motion.
22 (Declaration of Richard M. Steingard at ¶ 3.) Trustee's counsel subsequently
23 advised that the Trustee would not withdraw the motion. (*Id.*)

24 **II.**

25 **ARGUMENT**

26 Rule 9001(5), Federal Rules of Bankruptcy Procedure ("FRBP") states, in
27 relevant part, "When any act is required by these rules to be performed by a debtor
28 or when it is necessary to compel attendance of a debtor for examination and the

debtor is not a natural person: ... (B) if the debtor is a partnership, “debtor” includes any or all of its general partners or, if designated by the court, any other person in control.” In the instant case, the Trustee asserts that Christopher Kamon is “an appropriate party to designate and appear on behalf of the Debtor under RFBP 9001(5).” (ECF 269 at 6.) According to the Trustee’s motion, Mr. Kamon was the Chief Financial Officer of Girardi Keese, operated and oversaw the firm’s accounting department, participated in discussions with insolvency advisors and potential lenders, prepared checks on behalf of the firm (including for the firm’s trust account) and was a Trustee for the firm’s 401(k) plan. (*Id.*)

Accepting these allegations as true, Mr. Kamon submits that he should not be designated by the Court to appear and act on behalf of the debtor and participate at a § 341(a) meeting of the creditors. As stated in Mr. Kamon attached declaration, based on the advice of counsel, Mr. Kamon intends to assert his rights under the Fifth Amendment to the U.S. Constitution and will decline to make any statements or answer any questions put to him by the Trustee or creditors. (Declaration of Christopher Kamon at ¶ 2.) Case law makes clear that individuals retain their Fifth Amendment rights during bankruptcy proceedings. *See e.g., In Re Iorizzo*, 35 B.R. 465, 467 n.3 (E.D.N.Y. 1983) (recognizing that “the Iorizzos may be properly exercising their Fifth Amendment privilege against self-incrimination” even though “the Trustees’ duties are considerably hindered thereby”). *See also In Re Save More Foods Inc*, 96 B.R. 1 (D.D.C 1989).

Nor can there be a claim that Mr. Kamon’s assertion of the privilege is misplaced or frivolous. On December 14, 2020, the Hon. Thomas M. Durkin, United States District Court for the Northern District of Illinois, granted a Motion to Show Cause against the Girardi Keese law firm regarding the alleged misuse of funds in the firm’s attorney trust account. (*In Re: Lion Air Flight JT 610 Crash*, Case No. 18-CV-07686 (N.D. Ill.), ECF 848.) That same date, the Court made a criminal referral of the Girardi Keese firm to the United States Attorney’s Office

1 for the Northern District of Illinois and the government simultaneously moved to
2 unseal Mr. Girardi's Verified Motion for Rule to Show Cause. (*Id.* at ECF 850.) In
3 its filing, the government noted the Court's criminal referral and explained the
4 basis for its request as follows: "The government respectfully requests that the
5 Court enter an order modifying its current sealing order to allow access by the
6 USAO, and any law enforcement personnel or Department of Justice personnel
7 working with the USAO, to any materials filed under seal pursuant to the Court's
8 January 23, 2020 sealing order, regardless of when filed." (*Id.*) On December 16,
9 2020, the Court granted the government's motion. (*Id.* at ECF 869.)

10 On March 30, 2021, counsel for Mr. Kamon spoke with Assistant U.S.
11 Attorney Chris Catizano, one of the Chicago prosecutors assigned to the
12 investigation of the Girardi Keese firm, and inquired of Mr. Kamon's status in the
13 government's investigation. (Declaration of Richard M. Steingard at ¶ 4.)
14 Typically, the government assigns a label—witness, subject, or target—to an
15 individual who has some connection to an ongoing criminal investigation. Counsel
16 asked Mr. Catizano about Mr. Kamon's status in the investigation. Mr. Catizano
17 advised that at this juncture, he was unable to provide a witness/subject/target
18 description of Mr. Kamon. (*Id.*)

19 Nonetheless, the Trustee's allegations provide a more than sufficient basis
20 for Mr. Kamon's assertion of the Fifth Amendment privilege. As noted above, the
21 Trustee's motion asserts that Mr. Kamon was the CFO of Girardi Keese, operated
22 and oversaw its accounting department, prepared checks on behalf of the firm
23 (including checks in the trust account that formed the basis for the Court's criminal
24 referral), participated in discussions with insolvency advisors and potential lenders,
25 and acted as a Trustee for the firm's 401(k) plan. (ECF 269 at 6.) On these bases,
26 Mr. Kamon's right to assert a Fifth Amendment privilege seems self-evident.

27 As a practical matter, Mr. Kamon's proposed designation would be futile.
28 Because Mr. Kamon will assert his Fifth Amendment privilege and not provide the

1 Trustee or creditors with any sought-after information, such a designation would
2 be a waste of time and resources, would not serve to advance anyone's interests,
3 and would only delay the resolution of the Chapter 7 bankruptcy proceedings. In
4 essence, the designation of Mr. Kamon and his assertion of the Fifth Amendment
5 privilege will merely postpone the Trustee's motion for another proposed designee.
6 While Mr. Kamon appreciates that the Trustee seeks a substitute for the debtor
7 who can advance her inquiry, Mr. Kamon's designation will not accomplish that
8 purpose.

9 **III.**


10 **CONCLUSION**

11 For all the reasons set forth above, Mr. Kamon respectfully requests that the
12 Court deny the Trustee's motion.

13
14 DATED: March 31, 2021

Respectfully submitted,

15
16 LAW OFFICES OF RICHARD M. STEINGARD

17
18 

19 RICHARD M. STEINGARD
20 Attorney for Proposed Designee
21 CHRISTOPHER KAMON
22
23
24
25
26
27
28

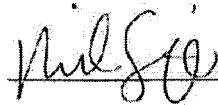
DECLARATION OF RICHARD M. STEINGARD

I, Richard M. Steingard, state and declare as follows:

1. I am an attorney licensed to practice in the State of California and before this Honorable Court. My firm represents Christopher Kamon in the above-captioned matter. I submit this declaration in support of Mr. Kamon's Opposition to Motion to Designate Chris Kamon to Appear or Act on Behalf of the Debtor and Compel Attendance at the § 341(a) Meeting of Creditors Pursuant to Federal of Bankruptcy Procedure 9001(5).
2. Since being retained, I have spoken to my client on multiple occasions. Based on our discussions, Mr. Kamon has advised me that, if designated, he will assert his rights under the Fifth Amendment to the U.S. Constitution and decline to make a statement or answer any questions by the Trustee or creditors.
3. On March 29, 2021, I spoke to Mr. Kamon's civil counsel, Jon Golden. Mr. Golden advised me that on March 23, 2021, after learning of the Trustee's motion, he spoke to the Trustee's counsel to advise him that, if designated, Mr. Kamon would assert his Fifth Amendment rights and decline to make a statement or answer any questions by the Trustee or creditors. Mr. Golden stated that he asked that the Trustee withdraw its motion seeking to designate Mr. Kamon. Mr. Golden advised me that on March 24, 2021, Trustee's counsel emailed him to say that the Trustee would not withdraw the motion.
4. On March 31, 2021, I spoke with Chris Catizano, an Assistant U.S. Attorney in the Northern District of Illinois. I had previously been advised that Mr. Catizano was one of the prosecutors assigned to the criminal investigation of Girardi Keese. After advising Mr. Catizano of the status of the Trustee's motion, I asked whether the government considered Mr. Kamon a witness,

1 subject, or target of their investigation. Mr. Catizano stated that at this
2 juncture, he could not provide me with a witness/subject/target description
3 for Mr. Kamon.
4

5 I declare under penalty of perjury that the foregoing is true and correct.
6 Executed this 31st day of March, 2021, at Los Angeles, California.

7
8 

9 Richard M. Steingard
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF CHRISTOPHER KAMON

I, Christopher Kamon, state and declare as follows:

1. I submit this declaration in support of the Opposition to Motion to Designate Chris Kamon to Appear or Act on Behalf of the Debtor and Compel Attendance at the § 341(a) Meeting of Creditors Pursuant to Federal of Bankruptcy Procedure 9001(5).
2. I am aware that the United States Attorney's Office for the Northern District of Illinois is conducting a criminal investigation of Girardi Keese where I was employed. After discussions with my counsel, it is my intention to follow their advice and, if designated, assert my rights under the Fifth Amendment to the U.S. Constitution and decline to make a statement or answer any questions by the Trustee or creditors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of March, 2021, at Los Angeles, California.



Christopher Kamon

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Law Offices of Richard M. Steingard
800 Wilshire Boulevard, Suite 1050, Los Angeles CA 90017

A true and correct copy of the foregoing document entitled (*specify*): OPPOSITION TO MOTION TO DESIGNATE CHRISTOPHER KAMON TO APPEAR OR ACT ON BEHALF OF THE DEBTOR AND COMPEL ATTENDANCE AT THE § 341(a) MEETING OF CREDITORS PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9001(5); DECLARATIONS

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On (*date*) 03/31/2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

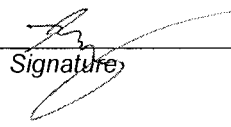
3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 03/31/2021, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell
U.S. Bankruptcy Court
Roybal Federal Building
255 East Temple Street, Suite 1660, Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

03/31/2021 Anthony K. Wong
Date Printed Name


Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY UNITED STATES MAIL:

Rafey Balabanian Edelson PC 123 Townsend St Ste 100 San Francisco, CA 94107	Eric D Goldberg DLA Piper LLP 2000 Avenue of the Stars Suite 400 North Tower Los Angeles, CA 90067	Eric D Winston Quinn Emanuel Urquhart & Sullivan LLP 865 South Figueroa Street 10th Floor Los Angeles, CA 90017
Michelle Balady Bedford Law Group 1875 Century Blvd, Ste 1790 Los Angeles, CA 90067	Marshall J Hogan Snell & Wilmer 600 Anton Blvd., Suite 1400 Costa Mesa, CA 92626	Christopher K.S. Wong Arent Fox LLP 555 W Fifth St 48th Fl Los Angeles, CA 90013
William C Beall Beall and Burkhardt, APC 1114 State St Ste 200 Santa Barbara, CA 93101	Sheryl K Ith Cooksey, Toolen, Gage, Duffy & Woog 535 Anton Blvd, 10th Fl Costa Mesa, CA 92626	
Richard D Buckley Arent Fox LLP 555 West Fifth Street, 48th Flr Los Angeles, CA 90013	Razmig Izakelian Quinn Emanuel Urquhart & Sullivan 865 S. Figueroa St., Fl. 10 Los Angeles, CA 90017	
Marie E Christiansen Vedder Price (CA) LLP 1925 Century Park E Ste 1900 Los Angeles, CA 90067	Lewis R Landau 22287 Mulholland Hwy., # 318 Calabasas, CA 91302	
Jennifer Witherell Crastz 15910 Ventura Blvd 12th Flr Encino, CA 91436-2829	Daniel A Lev 333 South Grand Avenue, Suite 3400 Los Angeles, CA 90071	
Clifford S Davidson Snell & Wilmer LLP One Centerpointe Drive, Suite 170 Lake Oswego, OR 97035	Scott H Olson Vedder Price 275 Battery Street, Suite 2464 San Francisco, CA 94111	
Richard W Esterkin 300 S Grand Ave 22nd Fl Los Angeles, CA 90071-3132	Leonard Pena 402 S Marengo Ave, Ste B Pasadena, CA 91101	
Lei Lei Wang Ekvall Timothy W. Evanston Philip E. Strok Smiley Wang-Ekvall, LLP 3200 Park Center Drive, Suite 250 Costa Mesa, CA 92626 714-445-1000	Michael J Quinn Vedder Price (CA) LLP 1925 Century Park E, Ste 1900 Los Angeles, CA 90067	
Andrew Goodman Goodman Law Offices, APC 30700 Russell Ranch Road, Suite 250 Westlake Village, CA 9136	Kevin C Ronk 4333 Park Terrace Drive, Ste 205 Westlake Village, CA 91361	
	William F Saavino 1900 Main Place Tower Buffalo, NY 14202	